

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

BENJAMIN HORTON,

Plaintiffs,

v.

9:21-CV-0730
(GTS/CFH)

CLINTON CORRECTIONAL FACILITY, et al.,

Defendants.

APPEARANCES:

BENJAMIN HORTON
16-A-3539
Plaintiff, Pro se
Clinton Correctional Facility
P.O. Box 2000
Dannemora, NY 12929

GLENN T. SUDDABY
Chief United States District Judge

DECISION AND ORDER

I. INTRODUCTION

On June 24, 2021, plaintiff Benjamin Horton ("Plaintiff") commenced this action pro se by filing a Complaint. Dkt. No. 1. On June 25, 2021, the Court issued an Order closing this action due to Plaintiff's failure to comply with the filing fee requirements. Dkt. No. 2 (the "June Order"). Plaintiff was advised that if he desired to pursue this action he must so notify the Court and either (1) pay the filing fee of \$402.00 in full, or (2) submit a completed, signed and properly certified application to proceed in forma pauperis ("IFP Application") and signed Inmate Authorization Form within thirty (30) days of the filing date of that Order. See *id.* On

July 12, 2021, Plaintiff filed an IFP Application. Dkt. No. 3.

II. DISCUSSION

A civil action is commenced in federal district court "by filing a complaint." Fed. R. Civ. P. 3. The filing fees must be paid at the time an action is commenced, unless an IFP Application is submitted to the Court. See 28 U.S.C. §§ 1914(a), 1915(a). The federal statute governing applications to proceed in forma pauperis in federal court, the Prison Litigation Reform Act ("PLRA"), 28 U.S.C. § 1915, provides in pertinent part that an IFP Application must be accompanied by "a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined." 28 U.S.C. § 1915(a)(2). In accordance with Local Rule 5.1.4 of the Local Rules of Practice for the Northern District of New York ("N.D.N.Y.L.R."), a prisoner seeking in forma pauperis status in a civil action subject to the PLRA may satisfy this requirement by submitting a completed, signed, and certified IFP Application as well as the authorization form issued by the Clerk's Office. N.D.N.Y.L.R. 5.1.4(b)(1)(A) and (B). Local Rule 5.1.4 further provides that if the prisoner fails to fully comply with the above-described requirements after being informed by Court order of what is required, "the Court shall dismiss the action." N.D.N.Y.L.R. 5.1.4(b)(2)(A).

Upon review, the Court finds that the IFP Application was completed, signed by Plaintiff and certified by an authorized officer of Clinton Correctional Facility. See Dkt. No. 3. However, Plaintiff has not provided the Court with the inmate authorization form issued by the Clerk's Office pursuant to the Local Rules of Practice of this District. See L.R. 5.1.4(b)(1)(B). Therefore, the Court hereby orders Plaintiff to submit either the full filing fee

or the attached authorization form.

In light of Plaintiff's pro se status, the Court will afford him a final opportunity to comply with the filing fee requirements for this action. If Plaintiff fails to timely comply, this action will be dismissed without prejudice without further Order of the Court.

III. CONCLUSION

WHEREFORE, it is hereby

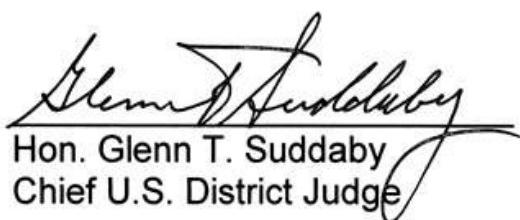
ORDERED that plaintiff must, within thirty (30) days of the filing date of this Decision and Order, either (1) pay the \$402.00 filing fee in full, or (2) provide the Clerk with a signed authorization form consenting to pay the full filing fee in installments as directed herein; and it is further

ORDERED that in the event Plaintiff fails to timely comply with the filing fee requirements set forth in this Decision and Order, this action will be dismissed without prejudice without further Order of this Court; and it is further

ORDERED that upon Plaintiff's compliance with this Decision and Order, the file shall be returned to the Court for further review; and it is further

ORDERED that the Clerk shall serve a copy of this Decision and Order on Plaintiff together with a blank Inmate Authorization Form.

Dated: August 10, 2021
Syracuse, New York



Hon. Glenn T. Suddaby
Chief U.S. District Judge

INMATE AUTHORIZATION

I, _____, authorize the agency holding me in custody to send to the Clerk of the United States District Court for the Northern District of New York ("Clerk"), at his request, certified copies of statements of my trust fund account (or institutional equivalent) at the institution where I am currently incarcerated.

If I have not been incarcerated at my current place of confinement for at least six (6) months, I authorize such agency to provide said Clerk, at his request, with copies of such account statements from the institution(s) in which I had previously been incarcerated.

I further request and authorize the agency holding me in custody to calculate, encumber and/or disburse funds from my trust fund account (or institutional equivalent) in the amounts specified by 28 U.S.C. § 1915(b). This authorization is furnished in connection with the commencement of the civil action submitted herewith (or noted below), and I understand that the total filing fee which I am obligated to pay is \$350.00. I also understand that this fee will be debited from my account regardless of the outcome of my lawsuit. This authorization shall apply to any other agency into whose custody I may be transferred.

→ **Signature:** _____

★ NOTE: You must sign your name on the above line.★

FOR OFFICIAL USE ONLY -- DO NOT WRITE BELOW THIS LINE

Name and DIN Number: _____
Civil action number: _____
Short name of case: _____